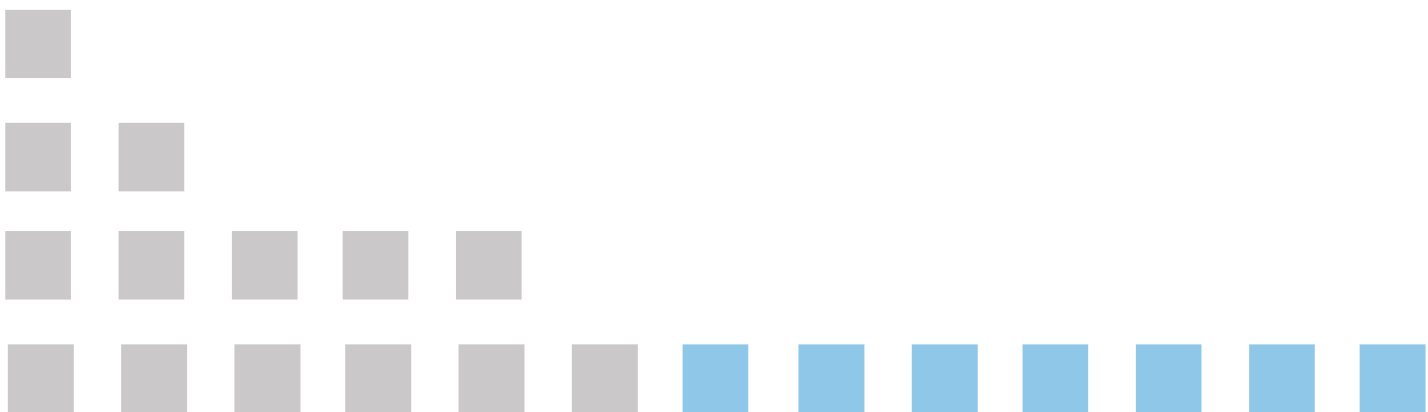


AML/CFT/CPF Applications

Feedback on Best and Poor Practices



Introduction

The following newsletter sets out good and poor practices observed in applications submitted to the Gibraltar Financial Services Commission (GFSC) in respect of registrations caught under the Proceeds of Crime Act 2015 (Relevant Financial Business) (Registration) Regulations 2021 (“the Regulations”). Prospective applicants should read this to help them better prepare for registration applications. This newsletter is not, however, an exhaustive list of steps that should be taken during the application process and should be read together with the Proceeds of Crime Act 2015 (“POCA”), *the AML/CFT Guidance Notes* and the information on our *Getting Authorised* page, which can be found on our website.

Considering an application

Request a pre-application meeting

Prior to preparing an application, applicants should consider requesting a pre-application meeting with the AML/CFT Supervision team. This will assist applicants in gaining a better understanding of our expectations and what we deem to be a complete application. During this meeting, applicants have the opportunity to raise any queries with the team to ensure that the application submitted is as comprehensive as possible. Applicants can contact the AML/CFT Supervision team on +35020040283 or at amlcft@fsc.gi.

Review the relevant legislation

Applicants must demonstrate an understanding of Gibraltar’s Anti-money Laundering (AML), Combatting Terrorist Financing (CFT) and Counter Proliferation Financing (CPF) requirements as set out in the POCA and the Regulations. It is essential that applicants are sufficiently familiar with applicable AML/CFT/CPF legislation in addition to our issued guidance to understand the expectations set by the GFSC. This will help applicants to tailor their application accordingly.

Applicants are also expected to have a sound understanding of other relevant pieces of legislation that govern the local AML/CFT/CPF regime. Other applicable legislation can be found in our AML/CFT Guidance Notes.

Seek independent legal/professional advice

Applicants should consider consulting with independent legal and/or compliance professionals who specialise in regulatory work, where necessary. These professionals have the ability to provide valuable guidance and ensure that an application satisfies all the appropriate requirements.

Review our website and registration forms

Applicants should familiarise themselves with all of the information set out on our website under the *Getting Authorised* page and should also read our guidance on the documents required to accompany an application when it is submitted. Ahead of submission, applicants should carefully read the guidance that is specific to the activity being proposed, ensure to download the correct forms and be prepared to answer all relevant questions raised by the team. The registration forms can be found on the *Registrations* section of our website.

Appoint a Money Laundering Reporting Officer (MLRO)

The GFSC requires that appointed MLROs be based in, and carry out their role from, Gibraltar. This individual should be sufficiently senior and must demonstrate that they have the necessary skills, qualifications and experience to carry out the proposed role.

Preparing an application

Develop robust policies and procedures

An applicant must establish clear and detailed policies and procedures that outline how the entity will prevent and detect Money Laundering (ML), Terrorist Financing (TF) and Proliferation Financing (PF) activities. It must also ensure that these policies align with the regulatory requirements in accordance with POCA, the Regulations and our Guidance Note and that it covers all relevant areas and requirements.

It is important to ensure that provisions regarding proliferation financing are included within policies and procedures, in accordance with the amendments made to the POCA in 2021. It is essential that there is an understanding of the PF risks present in the application and that measures are in place to mitigate those risks from materialising.

Develop a business model

Depending on the nature and complexity of the product and services to be offered, some firms may be required to submit a business plan setting out the firm's proposed activity, the systems that the applicant intends to employ and how the firm proposes to comply with Gibraltar's AML/CFT/CPF requirements. The business plan submitted should be detailed, well-thought out and should be tailored to the specific business model in question.

Complete a business risk assessment

The applicant should perform a comprehensive risk assessment of the business operations to identify potential ML, TF and PF risks and vulnerabilities. This assessment will help the applicant determine the appropriate measures to include in the application. The business risk assessment may take the form of a risk register so long as it takes into account financial crime risks and how the firm proposes to effectively and appropriately mitigate those risks.

Consider implementing appropriate technology solutions

Depending on the nature and size of the business, an applicant may consider implementing and investing in technology solutions to assist in the detection and prevention of ML, TF or PF. These may include transaction monitoring systems, identity verification platforms or sanctions and adverse media screening software. It is fundamental that applicants clearly articulate within the application documentation the features of these systems if intended to be used and how they will work in practice. An applicant must bear in mind that the GFSC will likely expect to see a demonstration of all systems intended to be used prior to the business launching its operations.

Comprehensive description of products and services

It is important to provide a thorough description of the products and services to be provided in order to help us understand the applicant's intended activity. This should include:

- Clear definition of the products and services – this should include a detailed description of each product or service the firm will offer, explaining their purpose, features and how these will be delivered to customers.

- Description of any regulated activities - the applicant should detail all regulated activities it intends to engage in.
- Outline of client base – the applicant should specify the types of customers it intends to service, for example, corporates, individuals etc, or specific industries including any target markets or geographical areas to be focused on.

Provide information on any outsourcing arrangements

The applicant should include details of any third-party relationships. If there is a reliance on third-party providers or any outsourcing arrangements, details about these relationships and should also be set out and should include how these arrangements are managed and monitored from an AML/CFT/CPF perspective.

Provide information on staff training

Applicants should provide comprehensive information on the AML/CFT/CPF training staff members will receive. This should include an overview of the topics covered in training sessions and the frequency of the training provided. Training should be relevant to Gibraltar requirements. It can include in-person sessions, online modules, webinars, emails, newsletters or a combination of methods.

Include specific sanctions controls

Information on the sanctions controls the applicant proposes to implement should be provided. This should:

- Outline the firm's sanctions policy, including the sanctions lists it screens against
- Set out the procedures and systems in place to conduct sanctions screening – this can be manual or automated depending on the needs of the size and nature of the applicant's business
- Specify the frequency of screening and highlight any screening tools used
- Describe the procedures the firm has in place for handling sanctions breaches
- Explain the process for reporting suspected or identified breaches to the relevant authorities

Provide all relevant information on the application forms

All the requisite application forms for the specific regulated activity should be completed with responses provided to all relevant questions. Applicants should also consider providing any further information which it believes would be relevant to the application so that the team is able to also take this into consideration.

Submitting an application

Ensure the application pack is complete

Applicants should ensure that the application pack includes all relevant documentation to support the application.

The documents submitted must be current and final versions which have been signed-off and drafted in accordance with the POCA and our AML/CFT/CPF Guidance Note.

Ensure the standards for registrations have been met

An applicant should demonstrate an understanding of its obligations to comply with AML/CFT/CPF legislation as well as the GFSC's issued guidance and requirements. It must be prepared and willing to meet these requirements at the application stage.

Pay the authorisation application fee

We only begin assessing an application once the relevant fee has been paid. When submitting the application, the application fee should accompany the submission. For further information on the relevant fees, please refer to the information set out on the website at Financial Services (Fees) Regulations 2020, which can be found on our website.

Assessing an application

Fitness and propriety assessments

Any officers, beneficial owners, shareholders/controllers or similar will be subject to a fitness and propriety assessment by the team. We would expect an applicant to be open and transparent and disclose to the team where there have been any issues, situations or circumstances which may impact the fitness and propriety considerations of those persons. The following is a list of non-exhaustive examples of factors that may impact the GFSC's fitness and propriety assessment and must therefore be disclosed at the point of the initial submission of the application:

- whether the applicant, and any officer, MLRO, manager or beneficial owner of the applicant has been convicted of a relevant offence;
- whether the applicant has consistently failed to comply with legislative requirements;
- the risk that the applicant's business may be used for money laundering, terrorist financing or proliferation financing; and
- whether the applicant, and any officer, MLRO, manager or beneficial owner of the applicant has adequate skills and experience and can be expected to act with probity.

Specific timeframes

We encourage an applicant to indicate any specific timeframes it may have. The GFSC expects an applicant to actively engage in responding to our feedback points promptly and to be proactive in implementing suggested changes to documents. This collaborative effort ensures that we meet our shared objectives and deadlines effectively.

Keep us updated

Whilst the team is undergoing its assessment of the application, it is crucial to keep us informed of any changes or developments in the firm's operations, such as changes in ownership, key personnel, or business activities. Advising us of these changes in a timely manner will help us to avoid delays in processing the application.

Ongoing obligations

During the assessment the team may request additional documentation or information. Cooperating with us promptly will allow us to process the application as efficiently as possible in the context of the time and resources allocated to process the application at that stage.

The application journey towards registration

